Filed 5/13/16 Estate of Jones CA3

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Trinity)

Estate of CARMEN JEANETTE JONES, Deceased.	C077183
JOYCE WINTERS HARRIS, Petitioner and Respondent, v. RAYMOND P. HARRIS, Objector and Appellant.	(Super. Ct. No. 08PR014)

This case continues a long dispute over residential property at 208 Second Avenue, Lewiston, California 96052 (the Property). This is appellant's third appeal concerning this property.[1] In a prior lawsuit in 2008, appellant Raymond Paul Harris

[1] The first two appeals, cases No. C062865 and No. C064672, were consolidated. In case No. C062865, this court rejected appellant's claims concerning the trial court's order removing him as trustee from the trust which is the subject of this litigation, rejected his claim of right to the trust property and ordered him to pay attorneys fees. In case No. C064672, this court rejected appellant's claims regarding the trial court's order appointing conservators for his mother. In case No. C064758, we affirmed the trial

signed a quitclaim deed vesting title to the Property in the Carmen Jeannette Jones Revocable Trust dated 1998 (the Trust). Appellant now appeals from an order that he sign a new quitclaim deed correcting the 2008 quitclaim deed to vest title in the Property in respondent Joyce Winters Harris, successor trustee of the Trust. Respondent is the widowed wife of Terry Harris,[2] one of appellant's brothers.

Appellant's briefing is rambling and incoherent. From the parties' briefing and our review of the record we are able to discern three issues on appeal: (1) whether the trial court had jurisdiction to order title in the Property be vested in respondent as successor trustee; (2) whether a statute of limitations prohibited changes to the title of the Property as of July 25, 2014; and (3) whether Judge Abel was "eligible" to hear the case, or whether he should have "removed himself." We conclude appellant failed to demonstrate reversible error, and the trial court properly ordered appellant to correct the quitclaim deed of 2008.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The Trust Estate

In the fall of 1978, appellant and his brother Terry purchased the Property together. By 1980, appellant had acquired Terry's interest in the Property following a notification of pending default for nonpayment on Terry's loan. On December 11, 1991, appellant quitclaimed the Property to his parents, then-spouses Carmen and Robert LeRoy Jones, pursuant to a document titled "Joint Partnership/Venture Agreement (Special Trust)." According to Robert, appellant did this because he had been diagnosed

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court's dismissal of a probate case filed by appellant to probate the trust property at issue here.

[2] Multiple individuals in this case share the same last name. To avoid confusion, we refer to them by their first names.

with a life-threatening illness and wanted to protect his property "should he go before [his parents]."

The stated purpose of the 1991 Agreement was "the ownership, development, occupancy and investment in [the Property] for possible resale." The Agreement provided that "[l]egal title to the above described property shall be maintained during the term of this agreement in the name of Carmen J [*sic*] Jones or Robert L. Jones (Husband and wife). In Special Trust for Raymond P. Harris (Son)." The Agreement further stated appellant had contributed 100 percent of the money invested in the property at that time, and set out rights and obligations -- including monthly payments -- to be shared by all parties.

Carmen and Robert separated in 1993. At appellant's request, Robert quitclaimed his interest in the Property to Carmen and asked her to develop a Trust for the Property "so that [appellant] . . . would not be picked apart by his brothers, particularly Jerry and Terry, should Carmen Go [*sic*] before [appellant]." On November 25, 1998, Carmen executed the Trust. Notably, article 5(c) provided that upon Carmen's death, the Trust estate would be distributed in its entirety to appellant, or if appellant did not survive Carmen, then to the "then living children of the settlor, and . . . then living issue of each deceased child." Article 11(c) further provided that appellant and then Terry would serve as successor trustees after Carmen. On May 27, 1999, Carmen transferred title of the Property to the Trust.[3]

On June 13, 2001, Carmen executed an amendment to the Trust. The amendment effected two changes. First, if appellant did not survive Carmen, the Trust estate would

[3] This is according to Terry and respondent's trial brief in case No. 08PR014. The grant deed itself is missing from the record on appeal. The fact that the Property was conveyed into the Trust is not contested, or even mentioned, by the parties on appeal.

pass to appellant's children instead of Carmen's. Second, Jerry W. Harris, another brother of appellant's, replaced Terry as successor trustee after appellant.

It is unclear from the record when appellant succeeded Carmen as trustee of the Trust; however, the parties agree he was acting as trustee by June of 2006. On June 13, 2006, appellant, acting as trustee, deeded the Property to himself (the Harris Grant Deed), purportedly at the instruction of his attorney. On September 10, 2007, Terry and respondent became co-conservators of Carmen's person and estate.

Petition for Removal of Appellant as Trustee

At some point in 2007 or 2008, Terry and respondent discovered that the Property had been transferred to appellant. On June 16, 2008, they petitioned for appellant's removal as trustee, return of Trust assets, and an accounting; the petition also complained of fraud, conversion, and elder abuse. Appellant also petitioned, to convey the Property to himself under claim of right based on the 1991 Agreement. Robert submitted a declaration to the effect that appellant only quitclaimed the Property to his parents for safekeeping due to his health concerns, and Carmen transferred the title to the Trust to protect appellant's interests in the property from his brothers.

On August 4, 2008, the trial court issued an interim order on a temporary agreement that Terry would be co-trustee until January 2009 or further court order, and appellant would quitclaim the Property back into the Trust. Pursuant to a stipulation between the parties, the quitclaim deed was executed on August 8, 2008.

On April 28, 2009, the trial court denied appellant's petition, finding the 1991 Agreement ambiguous and that no party at any time seriously attempted to comply with its terms. The court concluded Carmen owned the Property, and her transfer thereof to the Trust in 1999 thus terminated any interests appellant may have had under the 1991 Agreement. The court also granted Terry and respondent's petition to remove appellant as trustee, and appointed Terry as trustee. Appellant appealed on August 26, 2009. This

Court affirmed the judgment on September 7, 2011. (*Conservatorship of Estate of Jones* (Sept. 7, 2011, C062865, C064672) [nonpub. opn.].)

Carmen died on July 6, 2009, and Terry died on August 26, 2009. Jerry, who would have been successor trustee after Terry, was by then also deceased. On March 16, 2010, respondent successfully petitioned the court to appoint her as successor trustee.

Motion to Correct the 2008 Quitclaim Deed

On May 30, 2014, respondent moved to correct the quitclaim deed of 2008, on the basis that it incorrectly named the Trust itself, rather than the trustee, as the grantee. As successor trustee, respondent asked the court to name her as the grantee.

On June 26, 2014, appellant petitioned to, inter alia, remove respondent as trustee and appoint himself as successor trustee. The petition alleged numerous breaches of fiduciary duty by respondent, including failing to provide a full accounting, failing to manage trust property, failing to obtain fair market rental rate on the Property, and failing to properly maintain the property.

Appellant also opposed respondent's motion to correct the quitclaim deed on several grounds. He contended respondent's planned sale of the Property and use of proceeds to pay "trustee fees, attorney's fees or other alleged [T]rust expenses" would prejudice appellant as sole beneficiary. Appellant also claimed his "then legal counsel informed him that if he signed a Quitclaim Deed . . . the remainder of the case brought against him by [Terry] would be dropped." Instead, the case proceeded and resulted in his removal as trustee. Appellant claimed he would never have signed the quitclaim deed had he been aware that such an outcome was possible, ostensibly implying that the quitclaim deed upon which respondent's motion to correct was based was invalid.

Respondent's motion to correct was scheduled to be heard by Judge Dennis Murray on June 27, 2014. At that hearing, appellant indicated he was trying to obtain legal representation, and requested a continuance until August 29, 2014, when his motion to remove respondent as trustee was scheduled to be heard. The court acknowledged

"[c]learly there is a problem with how the title is sought to be transferred . . . to something that doesn't actually exist as a legal entity," but also commented "[p]erhaps if [appellant] does have counsel, this matter could be resolved more simply . . . ." The matter was ultimately continued to July 25, 2014.

On July 25, 2014, the motion to correct the quitclaim deed was heard by Judge S. William Abel. Appellant was in the process of trying to retain attorney Darin Wright, who appeared specially for the hearing because appellant was "out of town." Wright raised appellant's concern that "the trustee will try to sell the [P]roperty prior to getting an accounting . . . thereby hurting his position . . . ." The court expressed confusion with "[appellant's] reasoning," and pointed out "the trustee can't sell [the Property] without court authorization." However, the court offered to make an order that the trustee not "sell [the Property] without further authorization of the Court even if [she has] power under the [T]rust to do it," and asked Wright if appellant would sign the corrected deed. Wright replied that appellant would sign if the court ordered as much, especially if the court also ordered that the Property not be sold without court approval since that was "[appellant's] main concern."

Thus, with the agreement of counsel, on July 25, 2014, the court granted respondent's motion to correct and ordered appellant to sign a new quitclaim deed, with the caveat that the Property could not be sold without the court's prior consent. On August 13, 2014, appellant filed a notice of appeal from the court's order of July 25, 2014. The court did not enter a formal order until March 17, 2015.

Meanwhile, appellant's petition to remove respondent as trustee was heard before Judge Murray on August 29, 2014. The court denied the motion, noting that "an account has been filed." Specifically, the court explained to appellant that his motion was denied "because [respondent] did file an account after that motion, and I have no reason to believe at this point that that accounting . . . is not adequate." Moreover, the court told appellant, "You haven't indicated to me that somehow [the account]'s defective.

However, I've denied [your motion] without prejudice. That way . . . you can see if [the account]'s adequate. And if it's not, you can bring it to the further attention of the court." Defendant did not appeal this order.

DISCUSSION

As a preliminary matter, we briefly address contentions that are forfeited based on appellant's failure to follow the rules of appellate procedure. An appellant carries the burden to clearly state the issues on appeal and make coherent legal arguments. (Cal. Rules of Court, rule 8.204(a)(1)(B)-(C); see also *People v. Freeman* (1994) 8 Cal.4th 450, 482, fn. 2 ["We discuss those arguments that are sufficiently developed to be cognizable. To the extent [an appellant] perfunctorily asserts other claims, without development . . . , they are not properly made, and are rejected on that basis."].) If an appellant fails to furnish both a legal argument and citation to facts and authorities on a particular point in his brief, the court may pass it without consideration. (*In re S.C.* (2006) 138 Cal.App.4th 396, 408 [points asserted without argument or authority are deemed without foundation and require no discussion by a reviewing court]; see also *In re Marriage of Schroeder* (1987) 192 Cal.App.3d 1154, 1164.) "One cannot simply say the [lower] court erred, and leave it up to the appellate court to figure out why." (*Niko v. Foreman* (2006) 144 Cal.App.4th 344, 368 (*Niko*).)

The opening brief asserts numerous legal errors and violations, including, inter alia, "unconstitutional taking," multiple violations of appellant's rights under both the federal and state Constitutions, breaches of contract, and fraud or bad faith. The opening and reply briefs provide no intelligible legal argument for any of these assertions, much less citations to authority or explanations of how these would demonstrate reversible error. Many of the aforementioned phrases present in nonsensical sentences that are little more than strung-together legal buzzwords. (E.g., "this case before appeal falls under an abuse of discretion; statute of limitations; substantial evidence; in de novo; unconstitutional taking; common law; and due process standards . . . .") The opening

brief extensively lists various case law and statutes in the table of authorities, with scattered commentary, but these authorities are cited nowhere in the actual text of the brief, nor can we discern what points in the brief they are meant to support.

We are not required to search the record to ascertain whether it contains evidence sustaining appellant's contentions. (*Green v. Green* (1963) 215 Cal.App.2d 31, 35.) Nor are we obliged to act as counsel for him, or furnish legal arguments on his behalf. (See *Niko, supra,* 144 Cal.App.4th at p. 368.) Due to their conclusory nature, and the lack of supporting authority or cognizable legal reasoning, appellant's aforementioned points are forfeited.[4] (See Cal. Rules of Court, rule 8.204(a)(1)(B); *People v. Windham* (2006) 145 Cal.App.4th 881, 893, fn. 8.)

Furthermore, appellant's briefs rehash numerous arguments from his briefs in a previous appeal that was decided against him.[5] The law does not permit us to review, on an appeal from a judgment, any decision or order which has previously been appealed. (See *Woodman v. Ackerman* (1967) 249 Cal.App.2d 644, 648.) This is especially true where, as here, appellant urges us to consider functionally identical factual and legal issues as those upon which he based his previous appeal. For example, appellant resurrects contentions that trial records were somehow concealed or hidden from him, Carmen was unlawfully conserved, respondent and Terry illegally rented out the

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[4] Although appellant appears in this court without counsel, he is not entitled to special treatment. (See, e.g., *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985.) " 'A litigant has a right to act as his own attorney [citation] "but, in so doing, should be restricted to the same rules of evidence and procedure as is required of those qualified to practice law before our courts, otherwise, ignorance is unjustly rewarded." ' " (*Doran v. Dreyer* (1956) 143 Cal.App.2d 289, 290; *Gamet v. Blanchard* (2001) 91 Cal.App.4th 1276, 1284 ["in propria persona litigants are not entitled to special exemptions from the California Rules of Court or Code of Civil Procedure"].)

[5] We take judicial notice of appellant's briefs in case No. C062865 pursuant to Evidence Code sections 452, subdivision (d), and 459. (See *Conservatorship of Estate of Jones, supra*, C062865, C064672.)

Property, appellant should not have been removed as trustee, the trial court violated appellant's due process rights by ordering him to quitclaim the Property back into the Trust, respondent and Terry unlawfully or maliciously removed and replaced appellant as trustee, and respondent and Terry fraudulently concealed or failed to account for Trust assets.

Appellant is not entitled to repeat arguments in what would essentially be two appeals from the same ruling. (See, e.g., *Malatka v. Helm* (2010) 188 Cal.App.4th 1074, 1082; *Anderson v. Sherman* (1981) 125 Cal.App.3d 228, 238-239 [appeals cannot "merely call[] upon the court to repeat or overrule a former ruling on the same facts. [Citations.] . . . Defendants are not entitled to two appeals from the same ruling."].) Insofar as points raised in his briefs have already been argued and decided in previous appeals, we do not consider them.

From our review of the record and the briefing, we are able to identify three legal issues: (1) whether the trial court had jurisdiction to order title in the Property be vested in respondent as successor trustee; (2) whether a statute of limitations prohibited changes to the title of the Property as of July 25, 2014; and (3) whether Judge Abel should have been disqualified from the case.

I. Jurisdiction

A. The Parties' Contentions

The first argument we can discern in the opening brief seems to be that the trial court had no jurisdiction to order correction of the quitclaim deed of 2008 to convey Trust property back to the trustee. First, appellant claims the "minutes," dated August 4, 2008, were not a court order at all, but merely an attempt to settle the lawsuit against him. Second, to the extent that we can decipher appellant's briefing, he seems to argue the trial court could not appoint respondent as successor trustee or convey Trust property to her because she is not Carmen's " 'issue,' " and the sole trustee should be appellant because he is Carmen's " 'issue' " and sole beneficiary of the Trust. Third, the reply brief seems

to rephrase this "jurisdiction" argument as follows: (1) appellant was named Carmen's " 'Hire [*sic*],' " by which we assume he meant "heir," in the Trust; (2) once the Trust became irrevocable, it became "unchangeable"; and (3) when the trial court ordered appellant in 2008 to deed the Property " '[b]ack to the [t]rustee,' " that meant back "to [appellant], not [respondent]."

Respondent contends appellant's claim that the trial court lacked jurisdiction in this case has no merit, and the court properly exercised jurisdiction under Probate Code section 17000. We agree with respondent.

B. Analysis

As respondent points out, section 17000 provides that the superior court with jurisdiction over a trust has exclusive jurisdiction of proceedings concerning the trust's internal affairs, and concurrent jurisdiction over related actions and proceedings, including those involving trustees and third persons. (Prob. Code, § 17000.[6]) Appellant provides no discernible basis, much less legal authority, for arguing the trial court nonetheless lacked jurisdiction here.

It may be that appellant mislabeled various arguments as "jurisdiction" arguments. But even if we considered the substance of his arguments, assuming they are not forfeited and ignoring the flaws in their presentation, the arguments still fail to demonstrate reversible error.

First, appellant's characterization of the minutes dated August 4, 2008, as a "settlement" rather than an order is simply inaccurate, as that document states "Court

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6 In full, Probate Code section 17000 provides: "(a) The superior court having jurisdiction over the trust pursuant to this part has exclusive jurisdiction of proceedings concerning the internal affairs of trusts. [¶] (b) The superior court having jurisdiction over the trust pursuant to this part has concurrent jurisdiction of the following: [¶] (1) Actions and proceedings to determine the existence of trusts. [¶] (2) Actions and proceedings by or against creditors or debtors of trusts. [¶] (3) Other actions and proceedings involving trustees and third persons."

makes the temporary agreement an order of the Court as follows . . . ," and is signed by the judge.[7]

Second, appellant contends the trial court erred in appointing respondent as successor trustee. This appeal, however, is not an appeal from the denial of his petition to remove respondent as trustee. Appellant's contention is therefore irrelevant. Moreover, even if we were to consider the issue of respondent's appointment as successor trustee, the body of appellant's opening brief contains no legal authority or reasoning to support his argument. There are several cases in his table of authorities, with accompanying commentary, which appellant seems to proffer as legal support for his position. We briefly address a few of these citations.

In his opening brief, appellant cites in his table of authorities *Estate of Brown* (1937) 22 Cal.App.2d 480 (*Brown's Estate*) for the proposition that it is abuse of discretion for a trial court to appoint trustees whose personal interests conflict with those of the sole beneficiary, if their appointment would enable them to favor their own interests over those of the sole beneficiary. Appellant also cites *Schuster v. Superior Court* (1929) 98 Cal.App. 619 (*Schuster*) for the similar proposition that discharge of a trustee (ostensibly respondent in this case) is justified where the trustee has "discretionary powers," and "hostile feeling" would make it difficult for them to exercise those powers impartially. In citing *Brown's Estate* and *Schuster*, appellant essentially repeats assertions from his opening brief in a previous appeal that was decided against him. As previously stated, we do not consider such recycled arguments.

Even if appellant could raise these arguments here, neither *Brown's Estate* nor *Schuster* would help his case. In *Brown's Estate*, the appellate court affirmed the trial

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[7] Appellant's related argument that his agreement to sign a new quitclaim deed was merely an attempt to settle is addressed under the "Statute of Limitations" section, *post*.

court's decision not to remove appointed trustees because (1) the decedent who named the trustees was aware of the purported conflict of interest, and (2) the purported financial conflict was actually a financial incentive for the trustees to perform their fiduciary duties. (*Brown's Estate, supra*, 22 Cal.App.2d at pp. 485-488.) Nothing like those facts is present here. *Schuster* likewise does not contain anything to support appellant's position. In *Schuster*, the court granted an application for writ of prohibition to prevent a Superior Court of Los Angeles County from removing a trustee who was involved in another very similar proceeding in Arizona. (*Schuster, supra,* 98 Cal.App. at pp. 622-629.) *Schuster* has no relevance to appellant's contentions here.

In fact, appellant's briefs contain no explanation of what respondent's purported conflict of interest or "hostile feeling" is supposed to be (except perhaps that respondent is the current trustee, a position to which appellant believes he is entitled). The record on appeal contains no evidence of any conflict of interest that would prevent respondent from serving as trustee. In short, even if appellant had presented a novel challenge to respondent's appointment as trustee, and cited legal authority to support his position, there would be no basis to reverse the trial court's order.

Appellant also cites *Jones v. Stubbs* (1955) 136 Cal.App.2d 490 and *Overell v. Overell* (1926) 78 Cal.App. 251 for the proposition that transferring property on the advice of legal counsel does not establish just cause for removal of a trustee. This proposition, if true, would perhaps bolster appellant's contention that he, not respondent, should be trustee of the Trust. But, as discussed *ante*, appellant already appealed his removal as trustee and did not prevail.[8] He is not entitled to a second attempt at the same arguments here.

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[8] As respondent notes, most of appellant's arguments regarding his removal are "devoted to what simply appears to be a misunderstanding of the nature of an 'irrevocable trust.' " That a trust is irrevocable does not mean that it cannot permit changes in trustees (otherwise, such trusts could not themselves contain appointments of successor trustees),

In sum, no matter how we construe appellant's claims, we find no reversible error on the basis of jurisdiction. We therefore reject his argument that the trial court lacked jurisdiction to order correction of the quitclaim deed of 2008.

II. Statute of Limitations

A. The Parties' Contentions

The second argument we can decipher in appellant's opening brief is that the trial court violated some statute of limitations by granting respondent's motion to correct the quitclaim deed. Respondent argues that it is unclear what this alleged statute of limitations is, there are no statutes of limitations applicable to the circumstances of this case, and in any event, the argument is forfeited by appellant's failure to raise it in the trial court. We agree with respondent that appellant forfeited any statute of limitations argument by failing to raise it in the trial court.

B. Analysis

An appellant who does not timely raise an issue like an applicable statute of limitations in the trial court forfeits the right to challenge the outcome on the basis of that issue on appeal. (See, e.g., *People v. Snow* (2013) 219 Cal.App.4th 1148, 1151; *People v. Valtakis* (2003) 105 Cal.App.4th 1066, 1068.) Here, appellant did not argue in the trial court that a statute of limitations barred respondent's motion. He therefore forfeited the claim on appeal.

Even if the argument is not forfeited, it is meritless. The only statute of limitations appellant identified in the opening and reply briefs is Code of Civil Procedure[9] section

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including removal of a trustee for breach of fiduciary duties. Appellant was appointed trustee by the Trust, and later removed by the court for breach of fiduciary duty. With the only other successor trustee named in the Trust deceased, the court then appointed Terry as successor trustee, and respondent, Terry's widow, properly succeeded him upon his death.

[9] Appellant mistakenly cites this statute as Probate Code section 366.3.

366.3, which appears without commentary or argument in the table of authorities in the opening brief. This statute is not helpful to appellant. Code of Civil Procedure section 366.3 provides that an action to enforce a claim to distribution from an estate or trust, arising from a promise or agreement with a decedent, may be commenced within one year after the date of death. (§ 366.3.[10]) It has no relevance to this case, which arises from a motion to correct a quitclaim deed made nearly five years after the decedent's death.

Even if we assume the meat of appellant's second argument should be reviewed notwithstanding its forfeiture and improper labeling as a "statute of limitations" issue, we are able to discern, at best, four contentions, none of which demonstrates reversible error.

First, appellant seems to suggest the quitclaim deed of 2008 was invalid because it was based on a "[s]ecret [s]tipulation" that was not recorded until May 30, 2014. The record shows the quitclaim deed was executed on August 8, 2008, pursuant to an interim court order that was agreed upon by the parties.[11] Appellant was personally present in court when the agreement was stated to the court and the court made its order. The stipulation dated August 14, 2008, and signed by counsel for the parties[12] was not

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[10] In pertinent part, Code of Civil Procedure section 366.3 provides: "(a) If a person has a claim that arises from a promise or agreement with a decedent to distribution from an estate or trust or under another instrument, whether the promise or agreement was made orally or in writing, an action to enforce the claim to distribution may be commenced within one year after the date of death, and the limitations period that would have been applicable does not apply."

[11] "Court makes the temporary agreement an order of the Court as follows: [¶] Terry Harris shall be a co trustee until January 2009 or until further Order of the Court. [¶] The Real estate shall be deeded back into the trust. [¶] Raymond Harris shall record the Quit Claim Deed no later than August 5, 2008, at 5:00 p.m."

[12] "IT IS HEREBY STIPULATED as follows: [¶] 1. Raymond P. Harris shall execute by notarized signature and record the Quitclaim Deed attached hereto as Exhibit 'B' to this stipulation. Raymond P. Harris, in executing this Quitclaim Deed, shall only be

inconsistent with that order, and it is unclear how this stipulation is supposed to undermine the validity of the quitclaim deed of 2008. Appellant states he did not know of the stipulation signed by counsel, but whether or not he knew of it, he still would have been required by the interim court order to execute the quitclaim deed, which he did before the stipulation was signed.

Second, appellant appears to argue that Terry and respondent reneged on a promise to settle or drop the case if he signed the quitclaim deed of 2008. The quitclaim deed was executed pursuant to an interim court order, which contained no reciprocal requirement that the parties attempt to settle or drop the case. Additionally, the record contains no evidence of any agreement that the parties would settle, or drop the case, if appellant executed the quitclaim deed in 2008 pursuant to court order. At best, this argument seems to reflect a misunderstanding on appellant's part as to why he was signing the quitclaim deed; he purportedly believed he was doing so to settle the case when in fact the quitclaim deed was required by interim court order. Appellant's misunderstanding, however, would not invalidate that quitclaim deed or constitute reversible error in this case.

Third, appellant claims the trial court had no jurisdiction on August 4, 2008, to order him to "relinquish any [p]roperty [r]ights" before any trial, discovery, or finding of fact. Again, appellant repeats arguments he already made in a previous appeal. Even if we were to consider appellant's repetitive claim as a novel argument, it would be meritless. The court did not order appellant to relinquish any property to which he had an established right. The whole point of the lawsuit against appellant was that the Property belonged to the Trust, and he wrongfully conveyed it to himself. Appellant had asserted

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releasing any interest he has to the Real Property by virtue of the Harris Grant Deed. [¶] 2. Raymond P. Harris shall, by execution of this stipulation, preserve all rights, remedies, interests, claims, actions and defenses that respondent has to the Real Property, except for those obtained by the Harris Grant Deed."

a claim of right, but that claim was pending adjudication; the interim order was just that -- an interim measure until the court could evaluate the merits of appellant's claim. It was only after a hearing that the court ruled against appellant on his petition for claim of right, and ordered him to turn over all Trust property to Terry. In short, at no point did the court infringe on any established property right of appellant's.

Finally, appellant contends the quitclaim deed of 2008 was intended only to "erase" the Harris Grant Deed, not to change the Trust terms or the appointment of successor trustees. There is no explanation as to how the quitclaim deed of 2008 changed either of those things. In requiring appellant to return the Property to the Trust and appointing Terry as temporary co-trustee, the court simply took interim measures that were appropriate in light of allegations that appellant had breached his fiduciary duties as trustee by conveying the Property to himself.

Appellant repeats numerous arguments, including arguments previously made under the "jurisdiction" section, in the "statute of limitations" section of his reply brief. For the reasons set forth *ante*, these arguments remain unavailing. Appellant has not shown a violation of any statute of limitations that might provide a basis for reversible error.

III. Recusal of Judge Abel

A. The Parties' Contentions

Appellant's third argument is that Judge Abel was prejudiced due to "historical case conflicts" and was therefore "not eligible" to hear the case on July 25, 2014. Appellant's account of the relevant facts and background for this claim has to do with a previous family law case before Judge Abel involving appellant and his ex-wife in December of 2010. Appellant claims in that case, which involved a custody dispute and wherein appellant was an alleged victim of domestic violence, Judge Abel ruled "[m]ale persons cannot be victims of domestic violence" and ordered a custody mediation

"inconstant [*sic*] with California Law and Rules of Court." Appellant claims he appealed that ruling and filed a complaint with the "California Judicial Commissioners Office."[13]

According to appellant, the California Attorney General's Office filed a brief stating "there was no excuse for the actions of the Honorable, [*sic*] William Abel" but noted he "was about to retire in the very near future." Appellant claims that because this happened four years prior to the instant case, he believed Judge Abel would have retired in the interim. Counsel did not know of this purported conflict and appellant was not present in court on the day the court ruled on the motion to correct the quitclaim deed. While the relevance of this belief is not explicitly explained, appellant's point may be that Judge Abel should have disqualified himself from this case either (1) because his previous actions showed judicial misconduct sufficient to require disqualification, or (2) because Judge Abel's involvement in this case was contrary to appellant's expectations.

Respondent argues the claimed error is "simply not reviewable" on appeal because appellant failed to supply us with "an appropriate record regarding [his] claims." Respondent further contends appellant forfeited this argument by not raising it in the trial court.

B. Analysis

As a preliminary matter, the record contains no evidence that any of the events recited by appellant actually happened. Appellant provided no records of the 2010 family law proceedings, his complaint to the California Commission on Judicial Performance, or the brief allegedly filed by the California Attorney General's Office. (See *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141 [appellant has the burden to provide an adequate record to assert the claimed error].) This is not, however, the only defect in appellant's claim.

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[13] Appellant is likely referring to the California Commission on Judicial Performance.

Appellant states he filed a petition for and notice of stay of proceedings, and a peremptory challenge, which were "received by the appellate [*sic*] on June 1, 2015." First, we note that although appellant uses the term " '[p]eremptory [c]hallenge," he grounded his challenge in statutory sections that relate to disqualifying a judge for cause. (Code Civ. Proc., §§ 170.1, 170.3.) Insofar as this was intended as a peremptory challenge, it would be invalid because appellant had already exercised his one peremptory challenge in this case on December 17, 2009. (Code Civ. Proc., § 170.6, subd. (a)(4).)

Even construed as a challenge for cause, however, appellant's filing is defective. First, the document is not filed stamped. Second, a challenge for cause must be personally served on the judge, or on his or her clerk, provided the judge is present in the courthouse or chambers. (Code Civ. Proc., § 170.3, subd. (c)(1).) Appellant, however, served his challenge by mail.

Moreover, even assuming appellant followed proper procedure for challenging the judge for cause, and his challenge was denied, we could not review that denial here. A determination of the question of a judge's disqualification is not an appealable order, and may be reviewed only by a writ of mandate. (Code Civ. Proc., § 170.3, subd. (d).) Such writ is the exclusive means for seeking review of a ruling on a challenge to a judge, whether the challenge is for cause or peremptory. (*People v. Panah* (2005) 35 Cal.4th 395, 445.) Thus, to seek review, appellant would have needed to file and serve a petition for the writ within 10 days after the parties were served with notice of the decision denying the challenge. (*Ibid.*) The record does not show that appellate did so.

In short, the record does not show appellant followed appropriate procedure for disqualifying Judge Abel for cause. Even if he did, appellant's claim is not cognizable on appeal because the mechanism to review the denial of a challenge for cause is by writ of mandate.

DISPOSITION

The judgment is affirmed. Appellant shall pay respondent's costs on appeal. (See Cal. Rules of Court, rule 8.278(a)(1) & (5).)

MURRAY, J.

We concur:

NICHOLSON, Acting P. J.

MAURO, J.